

## Summary of Proposed Regulation 1 Comments – As of October 15, 2012

1. Scope of Regulation
  - a. A “one-size-fits-all” approach fails to acknowledge the full spectrum of risk management governance that may exist from bank to bank
2. Parity between regulations
  - a. Proposed regulation is more strict than Office of the Comptroller of the Currency (OCC) regulations
  - b. Federal Reserve Bank regulations refer to OCC regulations
3. Prepurchase Analysis
  - a. OCC allows a third party to perform modeling and analysis on potential investments; however, bank staff must review and make final decision
  - b. Clarify the timing of prepurchase analysis and documentation
4. Exclusion of Pooled Trust Preferred Securities (TPS) as eligible investments
  - a. Is buying single issuer mezzanine tranches better than buying pool of senior tranches?
5. Underwriting the underlying assets of a Collateralized Mortgage Obligation (CMO), Collateralized Debt Obligation (CDO), Real Estate Mortgage Investment Conduit (REMIC), Asset Backed Security, and other private label residential and commercial mortgage backed securities
  - a. Would the bank be required to underwrite the entire investment including the complex structures?
  - b. Embedded structures might violate loan policy guidelines relating to geographic concentrations and terms
  - c. When analyzing the security, the structure can limit the risk of the underlying asset
  - d. Language in the proposed regulation does not address credit enhancements
6. Adverse Classification of Securities
  - a. New Interagency guidance expected resulting from exclusion of rating agencies
  - b. What is required to demonstrate that a security is not sub-investment grade
  - c. What are the consequences of having a security Adversely Classified?
  - d. Why is the classification Doubt included?
7. Bank Owned Life Insurance (BOLI)
  - a. FFIEC Interagency Statement on the Purchase and Risk Management of Life Insurance does not limit purchases of BOLI to 25 percent of capital
  - b. Banking Department should expand discussion of BOLI as an investment vehicle
  - c. Proposed regulation does not differentiate between general and segregated BOLI accounts
8. Corporate Governance
  - a. Internal Risk Rating of Investment Securities
    - i. Banks repeatedly report an inability to obtain updated financial information needed to analyze bonds issued by smaller municipal entities

- ii. There is a burden to developing an internal risk rating when holding a large number of different municipal entities
    - iii. Does the proposed regulation require an internal risk rating system as extensive of the internal ratings for loans?
  - b. Internal Routines, Controls, and Audit
    - i. The proposed regulation does not address internal routines, controls, or audits and any effects on investment decisions
  - c. Board Reporting
    - i. Prescriptive guidance dictating frequency of reporting does not ensure quality reporting
    - ii. Proposed regulation places excessive burden on Board and less reliance on appropriate management committees
    - iii. Clarify the acceptable role of broker/dealers in a board or committee meeting
- 9. Reporting Broker/Dealer Volumes
  - a. Reporting all hedging transactions would result in a large notional value that is not indicative of the actual position
- 10. Derivatives
  - a. Using an index to hedge credit risk can be less costly, more liquid, and does not have size limitations
  - b. Proposed regulation is more restrictive than the proposed Volker Rule Hedging Exemption, which allows for hedging individual and aggregate exposures, but does not allow hedging an entire portfolio
  - c. Presenting simulation runs with and without hedging after initiating the hedging transaction seems like an unusual presentation
  - d. The exclusion of derivatives trading should be stated as Proprietary Derivatives Trading since some client accommodation derivatives activities are considered trading
  - e. FAS 133 Statement of Compliance should be ASC Topic 815
- 11. Community Investment Securities
  - a. Proposed regulation lowers the limit from 10 percent to 5 percent
- 12. Preferred Stock
  - a. OCC allows investments in preferred stock if it has the characteristics of debt
- 13. Sub-Investment Quality Securities
  - a. There should be a set number of sub-investment quality ratings required for a presumption of sub-investment quality
  - b. Are non-rated securities presumed to be sub-investment quality?
- 14. Marketable Securities
  - a. Clarification to the definition of a marketable security
  - b. Does the definition of marketable securities include the typical municipal financing transactions that are structured as bonds, but have aspects of debt?
- 15. Bank Service Corporations
  - a. Are operating subsidiaries included in the 10 percent limit on investments in bank service corporations?

16. Impairment

- a. Proposed regulation is inconsistent with guidance on the write-down of impairment, and does not allow for the separation of credit and market related impairment

17. Equity Investments

- a. Bankers Bank Stock required for membership

18. Portfolio Review

- a. Clarify the requirements and expectations of the quarterly and annual reviews

19. Eligible Types of Securities

- a. Certificates of Deposit and Bankers Acceptances are not listed